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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,413	05/25/2001	Barry D. Bremsteller		4975

7590 04/19/2004  
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EXAMINER
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WU, JINGGE

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 04/19/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/866,413

Applicant(s)

BREMSTELLER, BARRY D.

Examiner

Jingge Wu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-3, 5-7, 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6252996 to Putnam .

As to claim 5, Putnam discloses a method for creating a hand paintalbe panel with a set of indicia for guiding a user in painting over the panel to create a painted image (abstract), comprising:

providing a photographic image (fig. 2a, 102, col. 6 lines 29-31);

creating an image in digital form from the photographic image and storing the digital form into a memory in a programmable computer (col. 6 lines 38-52, and col. 5 line 1-10);

assigning pixel location to the image with the use of the programmable computer (fig. 2a, 108, col. 6 lines 31-46, note that assigning the pixel location is inherent in the process of digitizing);

using the programmable computer to assign color palette values to the pixel locations (col. 6 line 63-col. 7 line 2); and

printing (converting), under control of the programmable computer, indicia (fig. 2b, 136 (1 or 2)) representing the color values on the pane, so that a user paints over the indicia, using paints assigned to the indicia (1 or 2) to create a hand-painted image on the panel (col. 8 lines 5-20).

As to claim 6, Putnam further discloses determining the presence of a group of pixels with similar adjacent color, defining a region generally coincident to the group of pixels and printing a single indicia at a single location within region generally coincident to the contiguous group of pixels with similar color (fig. 2b and 3, col. 8 lines 5-44, col. 9 lines 50-59).

As to claim 7, Putnam further discloses comparing the color associated with the pixel locations (fig. 4, 164-166, col. 9 lines 37-48), determining a number of contiguous pixels location with similar color (fig. 4, 170, col. 9 lines 50-63), establishing a criteria for assigning a single character of indicia (1 or 2) for the area of contiguous pixel location depend on the variation of color between adjacent pixels (fig. 2b, note that "2" is assigned to two different areas as the guide for user to painting, col. 8, lines 5-20 and col. 10 lines 20-27).

As to claim 1-3, the limitations are addressed with regard to claim 5-7 (note that photographic image is "the image").

As to claim 9, Putnam discloses selecting contiguous pixel locations of similar color values and assigning a single palette value (col. 6 line 53-col. 7 line 2) to an area covered by the contiguous pixels locations (col. 8 lines 5-20, col. 9 line 50-col. 10 line 27), and other limitations are addressed with regard to claim 5.

As to claim 10-11, the limitations are addressed with regard to claim 5-7.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putnam.

As to claims 4, 8, and 12, Putnam does not explicitly mention assigning font size to the color value in font size corresponding to the brush size.

Examiner takes Official Notice that this feature is notoriously well known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use proper brush size related to the font size in the method of Putnam in order to obtain the better paint effects while the user paints the picture by hand.

**Contact Information**

Any inquiry concerning this communication or earlier communications should be directed to Jingge Wu whose telephone number is (703) 308-9588. He can normally be

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reached Monday through Thursday from 8:00 am to 5:30 pm. The examiner can be also reached on second alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to TC customer service whose telephone number is (703) 306-0377.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Amelia Au, can be reached at (703) 308-6604.

The Working Group Fax number is (703) 872-9314.

Jingge Wu

Primary Patent Examiner

